

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

AUTUMN CLOUD LLC,

*Plaintiff,*

v.

INTERACTIVE ONE, LLC,

*Defendant.*

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Case No. 2:16-CV-00841-JRG-RSP

**ORDER**

Before the Court is the Report and Recommendation filed by Magistrate Judge Payne on March 12, 2017 (Dkt. No. 13), recommending Interactive One, LLC's Motion to Dismiss for Failure to Serve Complaint (Dkt. No. 10) be granted.<sup>1</sup> The Report and Recommendation provided Autumn Cloud fourteen days to file objections. *See* (Dkt. No. 13.) No objections were timely filed.

On March 28, 2017, a day after the objection-period had expired, Autumn Cloud informed the Court that "the summons and complaint were served . . . [on] March 27, 2017." (Dkt. No. 18.) Service was made to John Weaver at 805 3rd Ave, Suite 1055, New York, NY 10022. (Dkt. No. 16-1; Dkt. No. 17.) However, Interactive One, LLC has indicated that it does not have an employee or agent named John Weaver and it does not have an office at 805 3rd Ave in New York. (Dkt. No. 18.) Accordingly, because Interactive One, LLC has not been properly served, the Report and Recommendation (Dkt. No. 13) is **ADOPTED**. Interactive One, LLC's motion to dismiss (Dkt. No. 10) is **GRANTED**.

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<sup>1</sup> This Report and Recommendation was entered nineteen days after the Court ordered Autumn Cloud to "file proof that Interactive One, LLC has been served with the complaint within **fourteen days** . . . ." (Dkt. No. 12.) No such proof has been filed.

Autumn Cloud's action against Interactive One, LLC is hereby **DISMISSED WITHOUT PREJUDICE**. *See* Fed. R. Civ. Proc. 4(m). The Scheduling Order entered on May 1, 2017 is **VACATED**, and the clerk is directed to close this case.

**So ORDERED and SIGNED this 11th day of May, 2017.**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE